

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DEUTSCHE BANK NATIONAL TRUST
COMPANY,

Plaintiff(s),

vs.

SEVEN HILLS MASTER COMMUNITY
ASSOCIATION, et al.,

Defendant(s).

Case No. 2:15-cv-01373-JAD-NJK

ORDER

(Docket No. 58)

Presently before the Court is Plaintiff's motion to extend certain discovery deadlines. Docket No. 58. Defendant Seven Hills Master Community Association filed a notice of non-opposition, admitting its oversight in providing documents gave rise to the need for the extension. Docket No. 60. Counter-Claimant SFR Investment Pool 1, LLC ("SFR") filed a response. Docket No. 61. Plaintiff filed a reply. Docket No. 62.

"A party is generally prohibited from raising new issues for the first time in its reply brief" as the opposing party is not afforded an opportunity to respond. *Queensridge Towers LLC v. Allianz Global Risk US Ins. Co.*, 2015 WL 1403479 at *3 (D. Nev. Mar. 26, 2015) (citing *Eberle v. City of Anaheim*, 901 F.2d 814, 818 (9th Cir. 1990)). Therefore, "[w]here the moving party presents new matters for the first time in a reply brief, the Court may either refuse to consider the new matters or allow the opposing party an opportunity to respond." *Steven Cohen Prods. Ltd. v. Lucky Star, Inc.*, 2015 WL 3555384 at *3 (D. Nev. June 5, 2015) (citing *Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2007)).

1 A court may grant a party leave to file a sur-reply in order to afford her that opportunity. *Id.* However,
2 such a sur-reply may “only address new matters raised in a reply to which a party would otherwise be
3 unable to respond.” *Steven Cohen Prods. Ltd.*, 2015 WL 3555384 at *3.

4 Here, Plaintiff’s reply brief raises new issues. It offers an entirely new motion, contending its
5 declaration at Docket No. 58 was erroneously filed without its motion attached. This deprived Counter-
6 Claimant SFR of the opportunity of addressing those issues. Rather than refusing to consider Plaintiff’s
7 new arguments, however, the Court finds that Counter-Claimant SFR should be afforded a chance to
8 respond to them.

9 **IV. CONCLUSION**

10 Accordingly, the Court hereby **GRANTS** Counter-Claimant SFR leave to file a sur-reply to
11 address only the new matters raised in Plaintiff’s reply, no later than February 22, 2016 at noon.

12 IT IS SO ORDERED.

13 DATED: February 18, 2016

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17 NANCY J. KOPPE
18 United States Magistrate Judge
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